

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHWESTERN DIVISION**

Nicholas Dodge Bruesch,)
)
Plaintiff,)
)
vs.)
)
Robyn Schmalenberger, Patrick Branson,)
Tammy Homan, Darly Kunz, and)
Marlane Middlestrand,)
)
Defendants.)

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

Case No. 1:13-cv-077

The Plaintiff, Nicholas Dodge Bruesch, is an inmate in the custody of the North Dakota Department of Corrections and Rehabilitation (“DOCR”). He initiated this civil rights action against the Defendants for violating First Amendment and due process rights by censoring his mail on July 9, 2013. See Docket No. 1. An amended complaint was filed on August 19, 2013. See Docket No. 12. Both the Plaintiff and the Defendants have moved for summary judgment. See Docket Nos. 31, 38, and 50. The motions were referred to Magistrate Judge Charles S. Miller, Jr. for a Report and Recommendation. On December 10, 2014, Judge Miller issued his Report and Recommendation wherein he recommended denying the Plaintiff’s motions and granting the Defendants’ motion. See Docket No. 58. The parties were given fourteen (14) days to file any objections to the Report and Recommendation. The Plaintiff’s time to file an objection was extended to January 30, 2015. See Docket No. 63. The Plaintiff filed his objection and a supporting affidavit on January 29, 2015. See Docket Nos. 64 and 65. The Defendants filed a response in opposition to the Plaintiff’s objection on January 30, 2015. See Docket No. 66.

The Court has carefully reviewed the entire record including the Report and

Recommendation, relevant case law, the Plaintiff's objection, and the Defendants' response to the Plaintiff's objection and finds the Report and Recommendation to be persuasive. The record does not support the Plaintiff's claims of violation of his First Amendment and due process rights.

Accordingly, the Court **ADOPTS** the Report and Recommendation (Docket No. 58) in its entirety. The Defendants' motion for summary judgment (Docket No. 38) is **GRANTED**. The Plaintiff's motion and amended motion for summary judgment (Docket Nos. 31 and 50) are **DENIED**.

IT IS SO ORDERED.

Dated this 2nd day of February, 2015.

/s/ Daniel L. Hovland
Daniel L. Hovland, District Judge
United States District Court